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| 09/943,711 | 08/30/2001 | Robert J. Simmons | SMG 301 | 1334 |

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EXAMINER

HORTON, YVONNE MICHELE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3635

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/943,711

Applicant(s)
Robert Simmons et al.

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 20, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 8, 12, 16, and 17 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 3, 8, 12, and 16 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Aug 30, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Withdrawal of Allowable Subject Matter

2. The indicated allowableness of claim 16 is withdrawn in view of a more thorough review of the reference(s) to HIGGINS. Rejections based on the newly cited reference(s) follow.

3. The indicated allowableness of claims 8 and 12 is withdrawn in view of the 35 U.S.C. § 112 rejections detailed below.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for the “collar-form beam-end attachable members” including an “laterally inwardly, facing, sloping interconnection bearing face” of claims 3, 8 and 12. As a matter of fact, the specification details that the inner faces of the “collar-form beam-end attachable members” “substantially parallels the outwardly sloping faces of the “collar-form column-attachable member”. Although the examiner is aware of the applicant's intention, the applicant is reminded that he must claim invention according to how

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it is represented in the specification. Thus, in order to be consistent with the specification, the applicant should amend his specification to recite that the --collar-form beam-end attachable members substantially parallels the outwardly sloping faces of the collar-form column-attachable member--. Clarification and correction are required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,289,665 to HIGGINS.

HIGGINS discloses a moment-resistant structural system including a collar-form beam-end-attachable member (12) including plural bolt interconnected components (11) having shanks

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(SH) (colored red) and plural bearing faces (BF1); and a collar-form column-attachable member (6) including plural bolt clearance passages (10) having plural interconnection faces (BF2); wherein the collar-form beam-end-attachable member (12) and the collar-form column-attachable member (6) is seated such that the shanks (SH)(colored red) extend in to the clearance passages (10) and bearing faces (BF1,BF2) are complementary to one another to establish a moment resistant, column 9, lines 23-24, stability therebetween while also inherently impede unseating thereof see Figure 5, column 9, line 22 by being “reasonably locked”. ***See the marked attachment.*** HIGGINS discloses the basic claimed moment resisting structure except for explicitly detailing that the members are “gravity” seated. Although HIGGINS does not explicitly say “seated by gravity”, he does disclose that the members are “dropped vertically downward” column 9, lines 9-24. “Dropping” alone implies involvement of “gravity”. Hence, It would have been obvious to one having ordinary skill in the art at the time the invention was made that the members of HIGGINS are seated by “gravity”.

Allowable Subject Matter

8. Claims 3,8 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. ***However, allowance is held in abeyance until receipt of claims in conformance with 35 U.S.C. 112.***

9. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the

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base claim and any intervening claims. *However, allowance is held in abeyance until receipt of claims in conformance with 35 U.S.C. 112.*

10. Claim 17 is allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

In reference to claim 17, the prior art of record fails to teach the use of a building frame including a moment resisting system wherein the column and beam interconnecting members of the building structure include bearing faces that slopes downwardly and away from the column.

Response to Arguments

12. Applicant's arguments filed 10/20/03 have been fully considered but they are not persuasive.

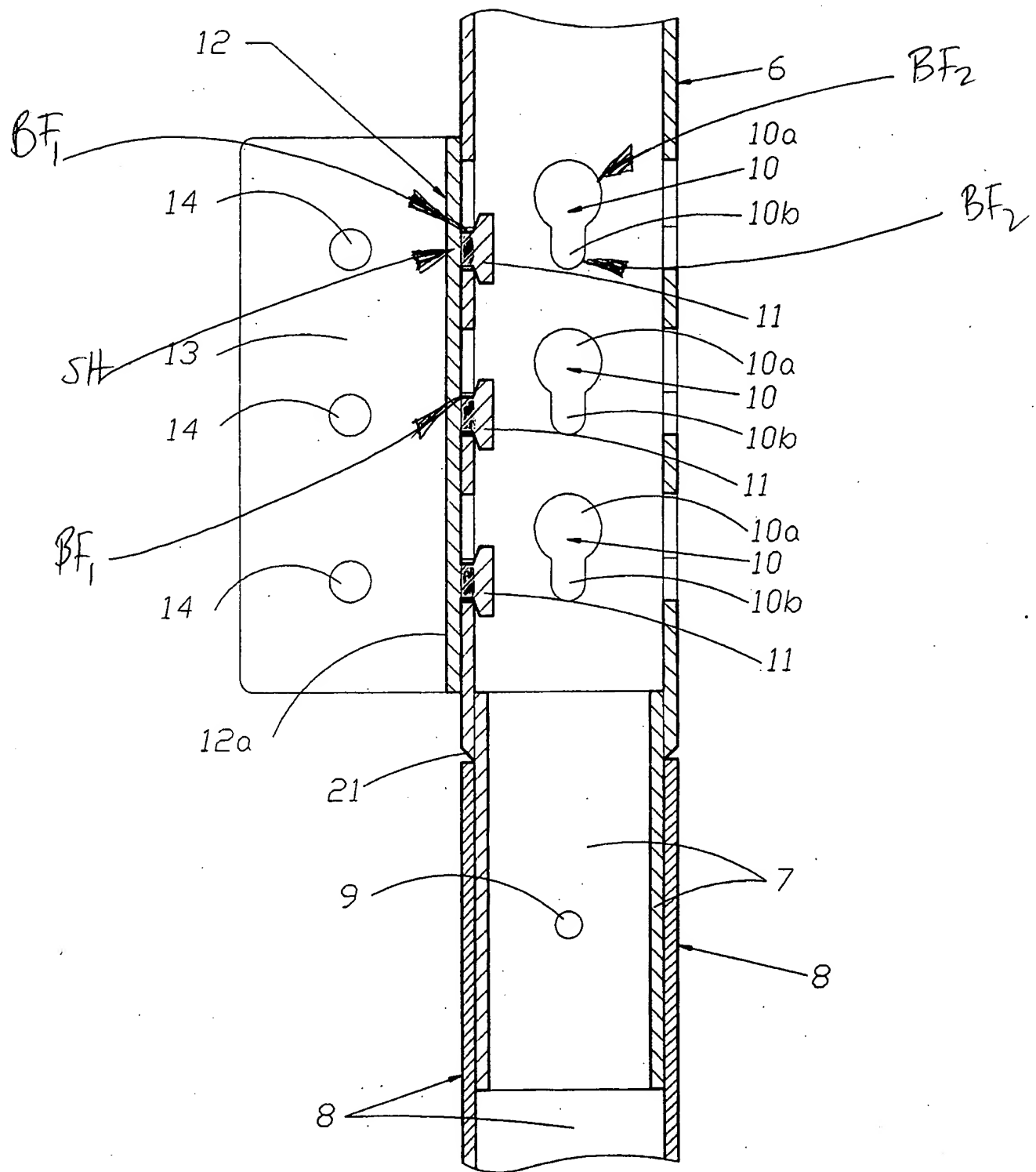
In response to the applicant's remarks/argument that the claims as now amended are in condition for allowance, the examiner apologizes; however, she still believes that even the claims as amended read on the cited reference to HIGGINS as detailed above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

Primary Examiner

January 12, 2004

**FIG. 5**